



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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DECEMBER 2, 2013

Regular meeting of the City Council held on Monday, December 2, 2013 at 8:04 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Clancy, and Landers. Absent: Councilor Seymour. Meeting adjourned at 9:05 PM.

ORDERED: That the minutes of the City Council Meeting NOVEMBER 18, 2013, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Proposed Amendment to the Code of the City of Marlborough, Zoning, Section 650-17, Medical and Dental Clinics, Order No. 13-1005578, be **RESCHEDULED FOR JANUARY 13, 2014**; adopted.

ORDERED: Now being the time set for the **JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, DECEMBER 02, 2013 at 8:00 p.m. in Council Chambers, 2nd Floor, City Hall, 140 Main Street, Marlborough, MA to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2014. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing recessed at 8:44 p.m.

Councilors Present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Clancy & Landers.

Absent: Seymour.

ORDERED: That the transfer of \$30,275.00 (thirty thousand two hundred seventy five dollars) from Sale of Graves to Offset the FY2014 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 27000-33020 \$30,275.00
Sale of Graves

TO:

Offset 2014 Tax Levy \$30,275.00

ORDERED: That the transfer of \$368,714.86 (three hundred sixty eight thousand seven hundred fourteen dollars and eighty six cents) from Acquifer Protection to Offset the FY2014 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 61000-31200 \$368,714.86
Acquifer Protection

TO:

Offset 2014 Tax Levy \$368,714.86

ORDERED: That the transfer of \$2,000,000.00 (two million dollars) from Undesignated Funds to Offset the FY2014 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$2,000,000.00

Undesignated Funds

TO:

Offset 2014 Tax Levy \$2,000,000.00

ORDERED: That the FY2014 Residential Factor of .79911 with a Corresponding CIP Shift of 1.40, **APPROVED**; adopted.

Councilor Oram requested to be recorded in opposition.

ORDERED: That the following percentage of FY2014 Tax Levy, **APPROVED**; adopted.

Residential 53.2 (Residential Property Valuation 66.57% of total valuation)

ORDERED: That the following percentage of FY2014 Tax Levy, **APPROVED**; adopted.

Commercial, Industrial, Personal 46.8 (CIP Valuation 33.43% of total valuation)

ORDERED: That the Fire Department transfer requests in the amount of \$48,704.98 which moves funds from Fringe to Firefighter to fund vacation buyback and a transfer in the amount of \$45,709.92 which moves funds from Fringe to Sick Leave and Firefighter to fund sick leave buy back and benefits associated with an anticipated retirement, refer to **FINANCE COMMITTEE AND CARRY OVER TO 2014**; adopted.

FROM:

Acct. # 11990006-51500 \$48,704.98

Fringe

TO:

Acct. # 12200001-50450 \$48,704.98

Firefighter

FROM:

Acct. # 11990006-51500 \$45,709.92

Fringe

TO:

Acct. # 12200003-51920 \$37,063.80

Sick Leave

Acct. # 12200001-50450 \$8,646.12

Firefighter

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 473, ENTITLED “POLES, WIRES AND CONDUITS,” AND CHAPTER 7, ENTITLED “ADMINISTRATION,” AS FOLLOWS:

A. Chapter 473 is hereby amended by deleting section 473-1 in its entirety and replacing it with the following:

§ 473-1. Appointment of Inspector of Wires

The Mayor shall appoint an Inspector of Wires for a term of three years. The position of Inspector of Wires shall be a salaried position.

B. Chapter 7 is hereby amended by deleting section 7-80 in its entirety and replacing it with the following:

§ 7-80. Assistant Plumbing Inspector & Assistant Wiring Inspector.

There shall be an Assistant Plumbing Inspector and an Assistant Wiring Inspector, who shall perform the duties of the Plumbing Inspector and the Wiring Inspector, respectively, as needed under the direction of the Building Inspector. The positions of Assistant Plumbing Inspector and Assistant Wiring Inspector shall be compensated in accordance with the salary ordinance on a per inspection basis.

Refer to **FINANCE COMMITTEE AND CARRY OVER TO 2014**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, ENTITLED “PERSONNEL,” AS FOLLOWS:

POSITION	EFFECTIVE DATE	MINIMUM	MAXIMUM
Wiring Inspector* (*part-time salary based on a 19 hour work week)	1/2/14	630.80	630.80
Assistant Wiring Inspector & Assistant Plumbing Inspector	1/2/14	\$25.00 / per inspection	

Refer to **FINANCE COMMITTEE AND CARRY OVER TO 2014**; adopted.

ORDERED: That the Mayor's Communication pertinent to the Open Space Plan, refer to **OPEN SPACE COMMITTEE AND CARRY OVER TO 2014**; adopted.

ORDERED: That, in order to further help meet the emergency temporary water needs of the Town of Hudson, the City Council hereby authorizes the Mayor, pursuant to M.G.L. c. 40, § 4A, to enter into a Renewal And Extension Of The Inter-Municipal Agreement with said Town pursuant to the terms and conditions set forth therein (attached Renewal And Extension Of Inter-Municipal Agreement and its attachment available for viewing in City Clerk's Office), **APPROVED**; adopted.

ORDERED: Communication from City Solicitor Rider re: Special Permit, Jump In with Us, 19 Brigham St., Unit 6, in proper legal form, Order No. 13-1005482B, **MOVED TO ITEM 17**; adopted.

ORDERED: That the Minutes, Community Development Authority, October 31, 2013, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- A. Sheldon Berenson, 90 Sudbury St., other property damage (2 claims)
- B. Matilda Muzzi, 19 Ashley Ln., pothole or other road defect claim

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Delano, Oram and Jenkins. Councilor Pope was also in attendance. The meeting convened at 7:02 PM.

Order No. 13-1005590 – Transfer \$1,800.00 to Fund Employee Transfer in Comptroller's Office. The Finance Committee reviewed the Mayor's letter dated October 31, 2013 requesting a transfer totaling \$1,800.00 to fund the longevity payment associated with the transfer of a School Department employee to the Comptroller's Office. **The Finance Committee voted 4 – 0 to approve the transfer.**

Order No. 13-1005599 – Transfer \$45,960.00 to Fund the DPW Engineer's Contract. The Finance Committee reviewed the Mayor's letter dated November 4, 2013 requesting the transfer of \$45,960.00 from reserve for salaries to various DPW Engineering accounts to fund the DPW Engineers Local 176 contract covering fiscal years 2013, 2014 and 2015. **The Finance Committee voted 4 – 0 to approve the transfers.**

Order No. 13-1005552 – Gift Award for \$750,000.00 for New Senior Center. The Finance Committee reviewed the Mayor's letter dated September 19, 2013 requesting the approval of a gift from Partners Healthcare Systems, Inc. for \$750,000.00 to replace the Senior Center. The Finance Committee requested the following from the Mayor:

- The \$750,000.00 gift be used to reduce the amount of the \$6.5 million bond for the senior center.
- The Auditor submit monthly financial reports to the City Council that document the expenditures for the senior center from the \$500,000 undesignated fund transfer for the design of the senior center, the \$6.5 million dollar bond for the construction of the senior center and the \$750,000.00 for the gift from Partners Health Care.

The Finance Committee voted 4 – 0 to approve the gift of \$750,000.00.

Councilor Delano reported the following out of the Legislative and Legal Affairs Committee:

Present: Chairman Seymour and Committee Members Delano and Robey. Councilor Landers, Councilor Pope, Councilor Tunnera, Scott Landgren representing CDM Smith; Richard Tomanek; Tim Cummings representing MEDC; Mayor Arthur Vigeant; and Assistant City Solicitor Cynthia Panagore Griffin were also in attendance. Meeting called to order at 7:00 PM.

Order No. 13-1005600 - That the Marlborough City Council hereby accepts Massachusetts General Law Chapter 64L, s.2 Local Option Meals Excise which imposes a local sales tax upon the sale of restaurant meals originating within the City of Marlborough by a vendor at a rate of .75 per cent of the gross receipts of the vendor from the sale of restaurant meals. No excise shall be imposed if the sale is exempt under section 6 of chapter 64H. The vendor shall pay the local sales tax imposed under this section to the commissioner at the same time in the same manner as the sales tax due to the commonwealth.

The Committee watched a presentation by Scott Landgren, representing Camp Dresser & McKee Smith (CDM Smith), on the benefits of artificial turf fields to the City of Marlborough. The benefits include an increased use potential and provide the local youth sports in Marlborough with improved facilities. The Local Option Meals Excise Tax would provide the City of Marlborough the ability to upgrade and maintain local Parks and Recreation facilities. Councilors Pope, Delano, Landers and Seymour have received a lot of positive feedback on the proposal, but Councilor Robey has only heard from residents who oppose the measure.

Motion made by Councilor Delano, seconded by Chairman Seymour, to recommend acceptance of MGL Chapter 64L, s.2 Local Option Meals Excise [imposing a local sales tax at a rate of .75 per cent]. The Committee voted 2-1 to Approve the Order. (Robey opposed)

Order No. 13-1005601 - That the city of Marlborough establish in the city treasury a special revenue account to be known as the Parks and Fields Development Special Revenue Fund in the City of Marlborough, into which account shall be deposited a) certain receipts comprising a portion of the total restaurant meals tax received annually by the city; and b) any grants and monetary gifts or donations made to the city in furtherance of the purposes of this act. The purposes of this act, and of the Parks and Fields Development Special Revenue Fund, shall be to promote and to sustain the development of sports tourism through the development of parks and fields in the city of Marlborough and the local economy in the City of Marlborough; it is further ordered, that the City Solicitor be requested to draft *An Act Establishing A Parks and Fields Development Special Revenue Fund in the City of Marlborough* for adoption by the City Council, approval by the Mayor and petition to the Massachusetts Legislature.

Councilor Robey had concerns over the language in this order that money can only be appropriated from the special revenue fund via a majority vote from the City Council. Councilor Robey made a motion to require a supermajority vote to spend money from the fund, which did not carry in a 2-1 vote, with Councilors Seymour and Delano in opposition.

Reports of Committees Cont'd

Motion made by Councilor Delano, seconded by Chairman Seymour, to recommend approval of “An Act Establishing A Parks and Fields Development Special Revenue Fund in the City of Marlborough” for adoption by the City Council, approval by the Mayor and petition to the Massachusetts Legislature. The Committee voted 2-0 to Approve the Order. (Robey voted present)

Councilor Elder recused himself prior to above item being reported out.

ORDERED: That the Communication from Assistant City Solicitor Panagore Griffin pertinent to the following:

- a) Application for Junk Dealer License, Bernard Novitch;
- b) Order No. 13-1005522: Referral to Legal Department and Code Officer;
- c) Report from City Solicitor Panagore Griffin – Bernard Novitch Matter Regarding a Secondhand Shop License (AKA “Junk Dealers License)

APPROVE MR. NOVITCH'S WITHDRAWAL OF HIS APPLICATION WITHOUT PREJUDICE; adopted.

ORDERED: That the Appointment of Leslie Biggar to the Council on Aging who will fill the balance of the term of Lynn Anderson which is due to expire on May 2, 2016, **APPROVED;** adopted.

ORDERED: That the Appointment of Dr. John Curran to the Board of Health for a term of three years to expire February 1, 2016, **APPROVED;** adopted

ORDERED: That the Appointment of Brian DuPont to the Planning Board for a five year term to expire on February 5, 2018 to replace longtime member Clyde Johnson, **APPROVED;** adopted.

ORDERED: That the Appointment of Nancy Stevens as a Regular member of the Zoning Board of Appeals to complete the term of Bob Page due to expire on May 5, 2017, accepted and placed on **FILE;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Special Permit, Jump In with Us, 19 Brigham St., Unit 6, in proper legal form, Order No. 13-1005482B, **TABLED UNTIL THE NEXT CITY COUNCIL MEETING;** adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:05 PM.